IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Crl.MC.No. 3644 of 2007()

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AGAINST THE ORDER DATED 26/10/2007 IN CRA.689/2007 IN
CMP.5032/2007 of SESSIONS COURT, ERNAKULAM

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PETITIONER: APPELLANT/ACCUSED

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HASSANKUTTY, AGED 54 YEARS,
S/O.ABDUL KHADAR, PUTHIYAKUNNEL HOUSE,
ADIMALY KARA, MANNAMKANDOM VILLAGE,
DEVIKULAM TALUK, IDUKKI DISTRICT.

BY ADV. SRI.PADAYATTEE YELDO

RESPONDENTS: COMPLAINANT

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1. MR.C.M.MANGALAKUMAR, AGED ABOUT
45 YEARS, S/O.MADHAVAN, CHIRACKAL HOUSE,
MOOLAMKUZHI, RAMESWARAM VILLAGE, MATTANCHERY P.O.,
ERNAKULAM.

2. STATE OF KERALA, REPRESENTED BY
THE GOVERNMENT PLEADER, HIGH COURT OF KERALA
AT ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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Crl.M.C.No. 3644 of 2007

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Dated this the 6th day of December, 2007

**O R D E R**

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I. Act. He has preferred an appeal. The appeal has been admitted. Order of stay has been granted, subject to condition. The petitioner is aggrieved by the condition that he must deposit an amount of Rs.1 lakh. The petitioner is unable to raise the said amount immediately. If the said condition were insisted, the petitioner will have to face the predicament of undergoing the sentence even before his appeal is disposed of on merits. In these circumstances it is prayed that the said condition may be set aside.

2. The cheque is for an amount of Rs.5 lakhs. There is a dispute regarding execution of the cheque raised before the learned Magistrate. While I find absolutely nothing improper in the direction for deposit of an amount of Rs. 1 lakh being 20%

of the cheque amount, I am satisfied that appropriate direction can be issued to ensure that the condition does not work out injustice to the petitioner.

3. This Crl.M.C. is allowed and the following directions are issued. The petitioner shall within one month from this date deposit an amount of Rs.15,000/- towards the amount of Rs. 1 lakh directed to be deposited by the Appellate Court. The petitioner shall have one months further time to make the balance amount of Rs.85,000/- In case the petitioner is not able to raise the balance amount, he may, while remitting the amount of Rs.15,000/- make a request to the learned Sessions Judge for expeditious disposal of the appeal and in such event, the learned Sessions Judge shall ensure that the appeal is disposed of within such period of one month. The learned Sessions Judge shall then direct that the sentence shall not be executed till disposal of the appeal.

**(R. BASANT)**
Judge

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